

NOTIFICATION OF TRANSMITTAL OF COPIES OF TRANSLATION OF THE INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Rule 72.2)

From the INTERNATIONAL BUREAU

To:

NANJO, Hiromichi 5th Floor, Okina Bldg. 2-9, Nishitenma 3-chome, Kita-ku Osaka-shi, Osaka 530-0047 JAPON



Date of mailing (day/month/year) 17 February 2005 (17.02.2005)

Applicant's or agent's file reference P2-03T01141

International application No. PCT/JP2003/009617

IMPORTANT NOTIFICATION

International filing date (day/month/year) 29 July 2003 (29.07.2003)

Applicant

TOYO SHINYAKU CO., LTD. et al

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

2. Transmittal of the copy of the translation to the elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

AZ, CA, CH, CN, CO, EP, GH, KG, KP, KR, MK, MZ, RO, RU, TM

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

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3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Authorized officer

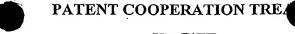
Yoshiko Kuwahara

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Form PCT/IB/338 (July 1996)

Translation





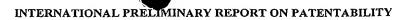
PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P2-03T01141	FOR FURTHER ACTION	ON	See Form PCT/IPEA/416		
International application No. PCT/JP2003/009617	International filing date (d 29 July 2003 (29		Priority date (day/month/year) 29 July 2002 (29.07.2002)		
International Patent Classification (IPC) or n A61K 31/352, 31/375, A61P 9/0	ational classification and IP	c ·	02, 2/00, A23F 3/14		
Applicant	Applicant TOYO SHINYAKU CO., LTD.				
 This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. 					
 This REPORT consists of a total of This report is also accompanied by A 		uding this cover	sheet.		
	to the International Bureau,) a total of	sheets, as follows:		
	taining rectifications authori		oeen amended and are the basis of this report ority (see Rule 70.16 and Section 607 of the		
sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.					
b. (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).					
4. This report contains indications rela	ting to the following items:				
Box No. I Basis of the re	port		•		
Box No. II Priority			at an analysis department of a little		
		to novelty, inven	tive step and industrial applicability		
Box No. IV Lack of unity of invention Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;					
citations and explanations supporting such statement Box No. VI Certain documents cited					
Box No. VII Certain defects in the international application					
Box No. VIII Certain observations on the international application					
Date of submission of the demand		Date of completion of this report			
19 February 2004 (19.02	2.2004)	10 June 2004 (10.06.2004)			
Name and mailing address of the IPEA/JP		Authorized officer			
Facsimile No.		ephone No.			



Box No. 1	Basis of the report			
 With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item. 				
	This report is based on translations from the original language into the following language, which is language of a translation furnished for the purpose of:			
	international search (under Rules 12.3 and 23.1(b))			
	publication of the international application (under Rule 12.4)			
	international preliminary examination (under Rules 55.2 and/or 55.3)			
furnish	gard to the elements of the international application, this report is based on (replacement sheets which have been and to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" not annexed to this report):			
💹 🤈	he international application as originally filed/furnished			
	e description:			
I .	ages, as originally filed/furnished			
1 1	ages* received by this Authority on			
l `	ages* received by this Authority on			
1 —	e claims:			
·	ages, as originally filed/furnished, as originally filed/furnished, as amended (together with any statement) under Article 19			
i -	ages* received by this Authority on			
1	ages* received by this Authority on			
l 🗀 .	de drawings:			
] —	ages , as originally filed/furnished			
Ī	ages* received by this Authority on			
I	ages* received by this Authority on			
	sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.			
3. 🔲 🤄	he amendments have resulted in the cancellation of:			
	the description, pages			
	the claims, Nos.			
	the drawings, sheets/figs			
	the sequence listing (specify):			
	any table(s) related to sequence listing (specify):			
'	his report has been established as if (some of) the amendments annexed to this report and listed below had not been hade, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box Rule 70.2(c)). The description, pages			
	the claims, Nos.			
	the drawings, sheets/figs			
	the sequence listing (specify):			
	any table(s) related to sequence listing (specify):			
* If item	applies, some or all of those sheets may be marked "superseded."			



INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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ati	onal application No.
	PCT/JP03/09617

Box No. IV Lack of unity of invention
1. In response to the invitation to restrict or pay additional fees the applicant has:
restricted the claims.
paid additional fees.
paid additional fees under protest.
neither restricted nor paid additional fees.
2. This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
complied with.
not complied with for the following reasons:
Claims 1-4 and 9 concern a composition for improving blood flow having proanthrocyanidine as the active ingredient. Claims 5-8 concern beverages containing ascorbic acid or a derivative thereof.
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4. Consequently, this report has been established in respect of the following parts of the international application:
all parts.
the parts relating to claims Nos
·

Box No. V		nder Article 35(2) with regions supporting such state	ard to novelty, inventive step or industria ment	al applicability;
1. Statement				
Novelt	ty (N)	Claim	3	YES
•		Claims	1, 2, 4-9	. NO
Inventive step (IS)	ive step (IS)	Claims		YES
		Claims	· 1-9	МО
Industrial applicability (IA)	Claims		YES	
		Claims	1-9	NO

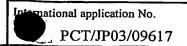
- 2. Citations and explanations (Rule 70.7)
- Document 1. EP 694305 A1
- Document 2. Satoshi TAKAGI, "Icho Ha Extract on Tokusei to Riyo," New Food Industry, 1998,
 Vol. 40, No.5, pp. 1-7
- Document 3. EP 1013278 A1
- Document 4. EP 1086693 A1
- Document 5. EP 1135995 A2
- Document 6. EP 713706 A2
- Document 7. JP 2002-29953 A
- Document 8. EP 815857 A1
- Document 9. SHUMEJKO, Pavel et al., THE EFFECT OF SIMULATED ACID RAIN ON THE BIOCHEMICAL COMPOSITION OF SCOTS PINE (PINUS SYLVESTRIS L.) NEEDLES, Environmental Pollution, 1996, Vol. 92, No.3, pp. 315-321
- Document 10. NYMAN, Bengt F., PROTEIN-PROANTHOCYANIDIN INTERACTIONS DURING EXTRACTION OF SCOTS PINE NEEDLES, Phytochemistry, 1985, Vol. 24, No. 12, pp. 2939-2944

Documents 1-3 cited in the international search report describe the inventions of claims 1 and 2, and therefore these inventions lack novelty and an inventive step. The full text of document 1 describes a medicine for the treatment of peripheral diseases, etc., associated with arterial or veinous circulatory disorders that contains proanthocyanidine dimers and oligomers, and because the kind of medicine for improving blood circulation in this application is also included in medicines for the above diseases, the inventions of claims 1 and 2 are the one and the same as the inventions of documents 1-3. The full text of document 2 states that ginkgo biloba leaf extract containing proanthocyanidine improves blood flow. Moreover, the full text of document states that pine needle extract improves blood flow, and as described in documents 9 and 10, because pine needle extract contains proanthocyanidine, the inventions of claims 1 and 2 are one and the same as the invention described in document 3.

Document 1 cited in the international search report describes the invention of claim 4, and therefore this invention lacks novelty and an inventive step.

Documents 4-8 cited in the international search report describe the inventions of claims 5-7 and 9, and therefore these inventions lack novelty and an inventive step. The full text of documents 4 and 5, Example 9 of document 6, Example 8 of document 7, and Example 7 of document 8 describe beverages that contain proanthocyanidine and ascorbic acid.

INARY REPORT ON PATENTABILITY



Box No. VI Certain documents cited

1.	Certain	published	documents	(Rule 7	0.10)
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Application No. Patent No.	Publication date (day/month/year)	Filing date (day/month/year)	Priority date (valid claim) (day/month/year)
JP 2003-95968 A	03.04.2003	27.09.2001	
[EX]			
JP 2003-128560 A	08.05.2003	23.10.2001	
[EX]	•		
JP 2003-284525 A	07.10.2003	12.12.2002	19.12.2001
[EX]			

Kind o	f non-written	disclosure
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Date of non-written disclosure (day/month/year)

Date of written disclosure referring to non-written disclosure (day/month/year)

Supplemental Box

In case the space in any of the preceding boxes is not sufficient. Continuation of Box V. 2:

Document 6 cited in the international search report describes the invention of claim 8, and therefore this invention lacks novelty and an inventive step. Example 9 of document 6 describes a tea beverage that contains proanthocyanidine and ascorbic acid.

None of the documents cited in the international search report describes the invention of claim 3, and therefore this invention is novel.

Based on the descriptions in documents 1-5 cited in the international search report, the invention of claim 3 lacks an inventive step. The invention of claim 3 concerns a beverage that contains ascorbic acid and is not described in documents 1-3. However, because documents 4 and 5 describe the use of ascorbic acid as an additive in medicine, persons skilled in the art can easily conceive of using the ascorbic acid described in documents 4 and 5 as an additive in the medicine described in documents 1-3